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09/451,592	11/30/1999	KRISHNA MANGIPUDI	20496/2	9253

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EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/451,592

Applicant(s)

MANGIPUDI ET AL.

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

1. Claims 1-23 are presented for examination.

#### *Response to Arguments*

2. Applicant's arguments filed December 20, 2004 have been fully considered but they are not persuasive because of the following reasons:

3. Applicant argues that Bhoj does not teach "defining service level classes". In response to applicant's argument, examiner submits that since applicant's amendment by adding "service level" necessitated the new ground(s) of rejection presented in this Office action.

4. Applicant argues that Choquier does not teach service level class. In response to applicant's argument, examiner asserts that Choquier does teach different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (i.e., service level classes) as shown in figure 12, element 1220, col. 20, line 32-col. 21, line 50. Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the step of defining service level classes of service and levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement (see Choquier col. 1, lines 45-67).

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5. Applicant argues that Choquier does not teach or suggest "wherein said class defines a hierarchy of service levels. In response to applicant's argument, examiner asserts that Choquier teaches different types of services and a hierarchy of different service and also having priority table that stored priority levels of each service as shown in col. 6, lines 8-31 and col. 20, line 32-col. 21, line 50.

6. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 6 and 9. Claims 2-5, 7-8, and 10-23 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in this office action [see rejection below].

7. Applicants still have failed to identify specific claim limitations that would define a patentable distinction over cited prior arts. Accordingly, rejections for claims 1-23 are rejected below.

### **Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5, 9-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bhoj et al.** (hereinafter Bhoj) U.S. Patent No. **6,304,892**, in view of **Choquier et al.** (hereinafter Choquier) U.S. Patent No. **5,951,694**.

10. Regarding claim 1, **Bhoj** discloses a method comprising steps of:  
defining service for at least one of host system, user, URL, hosted site, transaction, content and file type (see figures 2, 5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7);  
defining a set of parameters to be measured for each of said service (col. 4 lines 39-col. 6 lines 14, col. 6 lines 63-col. 10 lines 7);  
defining acceptance levels for each of parameters in said set of parameters (col. 5 lines 65-col. 6 lines 61, col. 7 lines 22-col. 10 lines 7);  
collecting information related to measurement of said parameters (col. 11 lines 24-40 and col. 15 lines 7-18); and  
comparing said acceptance levels to said information (col. 11 lines 41-54).

**Bhoj** does not explicitly teach service level classes of services.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (i.e., service level classes) (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj** and **Choquier** to have the step of defining service level classes of service and levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement (see Choquier col. 1, lines 45-67).

11. Regarding claim 2, **Bhoj** discloses the step of defining further includes the steps of: providing a format in which a set of servers will provide information to be measured (cols. 9-10 lines 62-7); and collecting said information (col. 11 lines 29-35).

12. Regarding claim 3, **Bhoj** discloses generating a database entry for each service commitment element of a service level agreement (cols. 11-12 lines 66-6).

13. Regarding claims 4 and 12, **Bhoj** discloses the set of parameters to be measured is selected from the set consisting of records of performance, errors, client IP address, username, date, time, service, server name, server IP address, processing time, bytes sent, bytes received, service status, operation, target URL, User Agent, referrer parameters, and cookie (cols. 8-9 lines 38-24).

14. Regarding claims 5 and 13, **Bhoj** discloses the information collected further includes information selected from the group consisting of assigned disk space, that the user can access, how the user's request is fulfilled within the system or web farm, user's subscribed level of service or class, transaction, number of requests, download size, file size, file type, time of day, week or month, response time of the back end servers', response time of the web farm, and how long it takes to complete a specified request or file (col. 9 lines 25-52).

15. Regarding claim 9, **Bhoj** discloses a method comprising steps of:  
defining service parameters according to a hierarchy of service levels (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 7 lines 14-21);  
selecting at least one of service parameters to be monitored (col. 12 lines 61-67);  
creating a database of monitored service parameters (cols. 11 lines 5-6); and  
preparing reports and/or alarms according to said selected at least one of service parameters (col. 14 lines 39-44 and col. 15 lines 25-30).

**Bhoj** does not explicitly teach service level classes of services.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (i.e., service level classes) (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj** and **Choquier** to have the step of defining service level classes of service and levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement (see Choquier col. 1, lines 45-67).

16. Regarding claim 10, **Bhoj** discloses a graphical user interface for performing at least one of selecting the service parameters to be monitored, defining thresholds of service-level commitments for at least some of said service parameters,

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defining alarm trigger events, scheduling monitoring and reporting functions, and determining reporting formats (see fig. 10, col.12 lines 61-67, col. 14 lines 39-44, col. 15 lines 25-34).

17. Regarding claim 11, **Bhoj** discloses preparing reports and /alarms is further based on thresholds, schedules, and formats defined by the graphical user interface (col. 15 lines 25-34).

18. Regarding claim 14, **Bhoj** discloses said class of service parameters are selected according to user class, host class, and virtual site class (col. 13 lines 15-19).

19. Regarding claims 15 and 16, **Bhoj** discloses defining classes is based on one of users, URLs and virtual sites (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM) (col. 7 lines 14-21).

20. Regarding to claim 17, **Bhoj** discloses said information related to measurement of said parameters is collected in real-time (col. 11 lines 24-40 and col. 15 lines 7-18).

21. Regarding to claim 18, **Bhoj** discloses each of said host system, user, URL, hosted site, transaction, content and file type belong to no more than one class (col. 9 lines 19-col. 10 lines 7).



22. Regarding to claim 19, **Bhoj** discloses identifying a set of agreed-to metrics and associating said set of agreed-to metrics with one of a plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).

**Bhoj** does not explicitly teach classes of service.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, *supra*.

23. Regarding to claim 20, **Bhoj** discloses each of plurality of services is defined by a set of agreed-to metrics (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).

**Bhoj** does not explicitly teach classes of service.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the

teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

24. Regarding to claim 21, **Bhoj** does not explicitly teach said classes defines a hierarchy of service levels. However, **Choquier** teaches wherein said class defines a hierarchy of service levels (col. 6, lines 8-31). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

25. Regarding to claim 23, **Bhoj** discloses wherein the step of defining service parameters comprising identifying a set of agreed-to metrics and associating said set of agreed-to metrics with one of a plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).

**Bhoj** does not explicitly teach classes of service.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

26. Claims 6-8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bhoj et al**, and **Choquier et al**, in view of **Fletcher et al** (hereinafter Fletcher) U.S. Patent No. **6,269,401**.

27. Regarding claim 6, **Bhoj** discloses an apparatus comprising:  
at least one back-end servers and reporter (figures 1-2, 4-5, see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) and reporter (figure 7);

a network connecting said at least one back-end servers and a reporter (figures 1-2, 4-5, 7 NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7);

a collection processor measuring and periodically collecting a set of defined parameters for said at least one back-end servers (cols. 5-6 lines 65-34 and col. 7 lines 22-col. 10 lines 7, col. 11 lines 24-40 and col. 15 lines 7-18);

wherein said acceptance levels depend on at least one of a service for at least one of host system, URL, hosted site, transaction, content, file type and user (figures 2, 5, col. 9 lines 19-col. 10 lines 7).

**Bhoj** does not explicitly teach service level classes of services and a set of acceptance levels for said collected parameters, a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level, and a reporting process that produces a report results of said monitoring processor.

**Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels of each service (i.e., service level classes) (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the step of defining service level classes of service and acceptance levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement (see Choquier col. 1, lines 45-67).

**Fletcher** teaches a set of acceptance levels for said collected parameters (fig. 3 col. 6 lines 26-34, col. 8 lines 7-col. 9 lines 30, col. 22 lines 67-col. 23 lines 7, col. 23 lines 55-col. 26 lines 65); a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level (col. 23 lines 16-col. 25 lines 39); and a reporting process that produces a report results of said monitoring processor (col. 25 lines 27-37). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Bhoj, Choquier and Fletcher** to have a set of acceptance levels corresponding to said collected parameters, a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level, and a reporting process that produces a report results of said monitoring processor because it would have an efficient

communication system that can monitor a communication network and enable to detect a problem and determine the cause of the problem and report to the network manager.

28. Regarding claim 7, **Fletcher** teaches monitoring a set of defined parameters and logging them into respective log files (col. 6 lines 40-43); scheduler triggering said reporter to begin collection of log files from a list of back-end server (col. 8 lines 735); an accumulator requesting log files from the intelligent agent of each listed backend server and consolidating the log files into a database (cols. 24-25 lines 51-26); an interface mechanism between said accumulator and each of intelligent agent (figures 3, 8, col. 24 lines 51-col. 25 lines 39), said interface mechanism ensuring that each requested log file is completely transferred to the accumulator prior to starting consolidation (col. 25 lines 3-26).

29. Regarding claim 8, **Fletcher** teaches keeps track of which portions of said log files have been transferred (col. 24 lines 29-50).

30. Regarding to claim 22, **Bhoj** teaches wherein said service for at least one of host system, URL, hosted site, transaction, content, file type and user is defined by identifying a set of agreed-to metrics and associating said of agreed-to metrics with one of plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).

### Conclusion

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen whose telephone number is (571) 272-3989. The examiner can normally be reached on Monday- Friday, 8:00AM – 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Najjar Saleh can be reached on (571) 272-4006.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

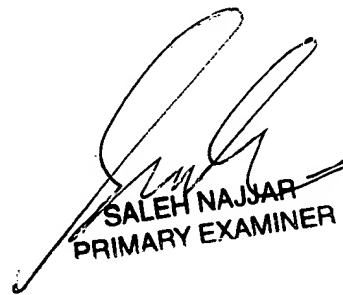
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Thu Ha Nguyen

July 4, 2005



SALEH NAJJAR  
PRIMARY EXAMINER